

identifying pixels respectively segmented into the one or more labeled groups in conformity with a spatially non-local segmentation model.

Therefore, claims 16-21 and 39-44 are patentable over Grimson, Bhat, and Owechko for at least the same reasons explained above in connection with independent claims 1 and 25.

The Examiner has asserted that the “combined invention of Grimson and Bhat is combinable with Owechko because they have aspects that are from the same field of endeavor of segmentation/classification.” Owechko’s disclosure, however, relates to a vision-based occupant detector that uses motion estimation and range information to estimate occupant position in real time and “relies upon the fact that the region of the head is likely to occupy when the occupant is sitting in a normal position is known with some degree of accuracy” (col. 7, lines 38-41). This disclosure has nothing whatsoever to with the vision systems of the type described in Grimson and Bhat. Indeed, Owechko does not teach or suggest anything about maintaining a pixel-level historical model. It appears that the Examiner improperly has engaged in hindsight reconstruction of the claimed invention, using applicants’ disclosure as a blueprint for piecing together prior art to defeat patentability. Without a proper explanation for combining the cited prior art, the Examiner has failed to establish a proper *prima facie* case of obviousness and the rejection of claims 16-21 and 39-44 should be withdrawn for at least this additional reason.

#### IV. Conclusion

For the reasons explained above, all of the pending claims are now in condition for allowance and should be allowed.

Charge any excess fees or apply any credits to Deposit Account No. 08-2025.

Applicant : Michael Harville  
Serial No. : 10/006,687  
Filed : Dec. 10, 2001  
Page : 9 of 9

Attorney's Docket No.: 10017809-1  
Amendment dated Feb. 3, 2005  
Reply to Office action dated Nov. 9, 2004

Respectfully submitted,

Date: February 3, 2005



---

Edouard Garcia  
Reg. No. 38,461  
Telephone No.: (650) 631-6591

Please direct all correspondence to:

Hewlett-Packard Company  
Intellectual Property Administration  
Legal Department, M/S 35  
P.O. Box 272400  
Fort Collins, CO 80528-9599